

## **EXHIBIT Z**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

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Diversi-Plast Products, Inc., a Minnesota corporation,	)	Civil Action No: 2:04-CV-01005 PGC
	)	Judge: Paul G. Cassell
	)	
Plaintiff,	)	
	)	
vs.	)	<b>NOTICE OF DEPOSITION UNDER FED. R. CIV. P. 30(b)(6) AND SUBPOENA DUCES TECUM OF INTEPLAST CORPORATION d/b/a INTEPLAST GROUP, LTD., L.P.</b>
	)	
Battens Plus, Inc., a California corporation, Defendant.	)	
	)	

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TO: Defendant Battens Plus, Inc. above-named and its attorneys, Daniel N. Ballard, Esq., McDonough, Holland & Allen, PC, 555 Capitol Mall, 9<sup>th</sup> Floor, Sacramento, California 95814; and Adam Price, Esq., Jones, Waldo, Holbrook & McDonough, 170 South Main Street, Suite 1500, Salt Lake City, Utah 84101:

**PLEASE TAKE NOTICE** Plaintiff Diversi-Plast Products, Inc., through its counsel, hereby gives notice to Defendant Battens Plus, Inc. that the attached subpoena duces tecum requesting documents and things from Inteplast Corporation, d/b/a Inteplast Group, Ltd., L.P. (Inteplast), pursuant to the accompanying Exhibit B, will be served in the near future. Plaintiff Diversi-Plast Products, Inc., also hereby gives notice that the deposition upon oral examination of Inteplast Corporation, d/b/a Inteplast Group, Ltd., L.P. located at 9 Peach Tree Hill Road, Livingston, New Jersey 07039 will be taken in accordance with Fed.R.Civ.P. 30(b)(6) beginning at 9:00 am on December 16, 2005, at the Courtyard by Marriott, 157 State Route 10, East Hanover, New Jersey 07936. The deposition will be taken by videotape means and before a court reporter or other person authorized to administer oaths. The deposition will continue from day to day, excluding weekends and holidays, until completed. A copy of the Stipulation and

Order Protecting the Confidentiality of Discovery Materials in this case, identified as Exhibit C,  
will also be served upon Inteplast.

Date: November 29, 2005

*Tye Biasco*  
\_\_\_\_\_  
Randall T. Skaar (*Pro Hac Vice*)  
Matthew T. Macari (*Pro Hac Vice*)  
Tye Biasco (*Pro Hac Vice*)  
**PATTERSON, THUENTE, SKAAR &  
CHRISTENSEN, P.A.**  
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**ATTORNEYS FOR PLAINTIFF  
DIVERSI-PLAST PRODUCTS, INC.**

**Issued by the  
UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

**SUBPOENA IN A CIVIL CASE**

**DIVERSI-PLAST PRODUCTS, INC.,**  
Plaintiff,

v.

**CASE NUMBER: 2:04-CV-01005 PGC  
DISTRICT OF UTAH**

**BATTENS PLUS, INC.,**  
Defendants.

**TO: INTEPLAST CORPORATION, d/b/a INTEPLAST GROUP, LTD., L.P.**  
c/o CORPORATION SERVICE COMPANY  
830 Bear Tavern Road  
West Trenton, New Jersey 08628

**YOU ARE COMMANDED** to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM DATE AND TIME

**YOU ARE COMMANDED** to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case. SEE ATTACHED EXHIBIT A FOR LIST OF TOPICS.

PLACE OF DEPOSITION	DATE AND TIME
Courtyard by Marriott 157 State Route 10 East Hanover, New Jersey 07936	December 16, 2005 9:00 a.m.

**YOU ARE COMMANDED** to produce and permit inspection and copying the following documents or objects at the place, date, and time specified below: SEE ATTACHED EXHIBIT B FOR LIST OF DOCUMENTS.

PLACE	DATE AND TIME
Intoplast Corporation, d/b/a Intoplast Group, Ltd., L.P. 9 Peach Tree Hill Road Livingston, New Jersey 07039	December 15, 2005 9:00 a.m.

**YOU ARE COMMANDED** to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT):	DATE:
Tye Biasco Attorney for Plaintiff Diversi-Plast Products, Inc. 	11-29-05

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER
Tye Biasco (612) 349-3010
Patterson, Thuente, Skaar, & Christensen, P.A., 4800 IDS Center, 80 South 8th Street, Minneapolis, MN 55402
(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on Reverse)

AO 88 (Rev. 1/94) Subpoena in a Civil Case

**PROOF OF SERVICE**

DATE \_\_\_\_\_ PLACE \_\_\_\_\_

**SERVED**

SERVED ON (PRINT NAME) \_\_\_\_\_ MANNER OF SERVICE \_\_\_\_\_

SERVED BY (PRINT NAME) \_\_\_\_\_ TITLE \_\_\_\_\_

**DECLARATION OF SERVER**

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on \_\_\_\_\_ DATE \_\_\_\_\_ SIGNATURE OF SERVER \_\_\_\_\_

ADDRESS OF SERVER \_\_\_\_\_

**Rule 45, Federal Rules of Civil Procedure, Parts C & D:****(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance;
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that,

subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

- (iv) subjects a person to undue burden.

(B) If a subpoena

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

- (iii) requires a person who is not a party or an officer of a party to incur substantial expenses to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

**(d) DUTIES IN RESPONDING TO SUBPOENA.**

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

**EXHIBIT A**

Pursuant to Federal Rule of Civil Procedure 30(b)(6), Inteplast Corporation d/b/a Inteplast Group, Ltd. (Inteplast) must designate one or more individuals having personal knowledge regarding the following indicated subject matters and appear at the above noticed deposition.

1. Authentication or identification of all documents produced by Inteplast, in response to this subpoena.
2. Any and all facts concerning the organizational and business relationship between Inteplast and Battens Plus, Inc.
3. Any and all facts and circumstances pertaining to any participation or involvement of Inteplast, or individuals or entities under the direction or control thereof, in the conception, design, development, manufacturing, marketing, or sales of any Battens Plus, Inc. products.
4. Any and all facts and circumstances pertaining to the date of Inteplast's first knowledge or awareness of the Flow-Thru product made by Diversi-Plast Products, Inc., including the identity of individuals having such knowledge or awareness.
5. Any and all facts and circumstances pertaining to the date of Inteplast's first knowledge or awareness of United States Patent No. 6,357,193, including the identity of individuals having such knowledge or awareness.
6. Any and all facts and circumstances pertaining to Inteplast's cost of manufacturing any products for Battens Plus, Inc., the per unit price Inteplast charged Battens Plus, Inc. for those products, and the per unit profit Inteplast realized for those products including, but not limited to total sales figures, including gross sales income, on a monthly basis, the amount of profit attributable to these sales, the number of unit sales, the gross net profit and margin for all products sold, and an explanation of how the profit is calculated.
7. Any and all facts and circumstances regarding any communications between Inteplast and any other party regarding United States Patent No. 6,357,193.
8. Any and all facts and circumstances regarding any communications between Inteplast and any other party regarding Battens Plus, Inc.
9. Any and all facts and circumstances regarding any communications between Inteplast and any other party regarding Battens Plus, Inc.'s BattenUp product.

**EXHIBIT B**

The terms "document" and "documents" have the same meaning and scope as the term "documents" under Fed. R. Civ. P. 34 but also includes electronic mail. A draft or non-identical copy is a separate document within the meaning of the term "document."

**Requested Documents**

1. Any and all documents respecting communications with Battens Plus, Inc., or representatives thereof, regarding any products made by Inteplast Corporation d/b/a Inteplast Group, Ltd. (Inteplast) for Battens Plus, Inc.
2. Any and all documents respecting any participation or involvement of Inteplast, or individuals or entities under the direction or control thereof, in the conception, design, development, manufacturing, marketing, funding, distribution, or sales of any products to Battens Plus, Inc.
3. Any specifications, design or manufacturing documents, quality manuals, or user manuals for any products Inteplast manufactures for or sells to Battens Plus, Inc.
4. Any and all documents respecting any products sold by Battens Plus, Inc.
5. Any and all documents respecting the Flow-Thru products made by Diversi-Plast Products, Inc.
6. Any and all documents respecting United States Patent No. 6,357,193.
7. Any and all documents respecting Inteplast's cost of manufacturing any products for Battens Plus, Inc., the per unit price Inteplast charged Battens Plus, Inc. for those products, and the per unit profit Inteplast realized for those products including, but not limited to total sales figures, including gross sales income, on a monthly basis, the amount of profit attributable to those sales, the number of unit sales, the gross net profit and margin for all such products sold.
8. Any and all documents reflecting or comprising communications between representatives of Inteplast and representatives of Battens Plus, Inc. concerning this litigation and/or the subject matter of this litigation.